

No. 6033-4Lab-75/19373.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. New Horizons Private Limited, Mathura Road, Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 26 of 1975

between

SHRI I. M. CHADHA, WORKMAN AND THE MANAGEMENT OF M/S NEW HORIZONS,
PRIVATE LIMITED, MATHURA ROAD, FARIDABAD.

Present—

Shri Bhim Singh Yadav, for the workman.

Shri K. P. Aggarwal, for the management.

AWARD

By order No. ID/FD/74/2900, dated 21st January, 1975, of the Governor of Haryana, the following dispute between the management of M/s New Horizons Private Limited, Mathura Road, Faridabad and the workman Shri I. M. Chadha was referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri I. M. Chadha was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, the parties were called upon to put in their respective pleadings. The workman has reiterated his demand for reinstatement and payment of back wages as earlier raised through the demand notice, dated 27th November, 1973, whereupon conciliation proceedings were initiated by the Labour-cum-Conciliation Officer, Faridabad. The management has contested his claim on merits pleading *inter alia* that the demands the subject-matter of the reference, had not been first raised on the management and rejected by it, that it was a case of self-abandonment of service by the workman concerned, that the appropriate Government to refer the dispute for adjudication, if any, was the Delhi Administration and not the Government, Haryana as Shri I. M. Chadha, workman concerned was in the service of the management in their factory at 54, Okhla Industrial Estate (New Delhi).

From the pleadings of the parties the following issues arose for determination in the case:—

- (1) Whether the demand the subject-matter of the reference was first raised on the management and rejected by it before taking up the matter for conciliation? If not, with what effect? (on workman)
- (2) Whether it is a case of self-abandonment of service by the workman concerned as alleged by the management? (on management)
- (3) Whether the termination of services of Shri I. M. Chadha was justified and in order? If not, to what relief is he entitled?
- (4) Whether the appropriate Government to make the reference of the dispute is not the Government of Haryana but the Delhi Administration? If so, with what effect? (on management)

Shri I. M. Chadha, the workman concerned, has made his own statement while on behalf of the management Shri R. K. Wadhwa, one of the Directors of the Company has come into the witness box. Besides a large number of documents have been produced on both sides. The workman has brought on record copy of the letter, dated 31st May, 1972, received by him from Thomson Press (India) Ltd., intimating the acceptance of his resignation, Exhibit W-1; copy of the confirmation letter, dated June 1, 1973, received from the present management, Exhibit W-2, copies of the telegram, dated 11th October, 1973, written by him to the Labour-cum-Conciliation Officer, N. I. T., Faridabad and the Labour Commissioner, Haryana, Chandigarh, that he was regularly attending the factory at Faridabad but the management had refused to take him on duty, Exhibit W/3 & W/4, copy of the letter, dated 11th October, 1973, written to the management to the same effect, Exhibit W-5, under registered cover.

postal receipt, Exhibit W-6, A. D. receipt, Exhibit W-7, copy of another letter, dated 13th October, 1973 to the same effect, Exhibit W-8, sent under registered post, postal receipt Exhibit W-9, A. D. Receipt, Exhibit W-10, telegram, dated 12th October, 1973, Exhibit W-11, copy of the letter, dated October 15, 1973, received by him by the management Exhibit W-12, registered cover W-13, copy of the telegram, dated 18th October, 1973 written by him to the management, Exhibit W-14, copies of the same telegram addressed to the Labour Commissioner, Haryana, Chandigarh, and Labour Inspector, Faridabad, Exhibit W-15, W-16, Telegraphic receipts, Exhibit W-17, W-18, another telegram, dated 19th October, 1973 Exhibit W-19, telegraphic receipts Exhibit W-20, application, dated 20th October, 1973, addressed to the management, Exhibit W-21, postal receipts, Exhibit W-22, another telegram addressed to the management, Exhibit W-23, reply received from the management, dated November, 2, 1973, Exhibit W-24, registered cover, Exhibit W-25, demand notice, dated 20th November, 1973, Exhibit W-26, another demand notice, dated 27th November, 1973, Exhibit W-27, letter received from the Labour Inspector, dated 14th December, 1973, Exhibit W-28, comments filed by him before the Labour-cum-Conciliation Officer, Exhibit W-29, letter of the Conciliation Officer, Exhibit W-30, Calander of the management for the year, 1974, Exhibit W-31 and Magazine alleged to have been printed by the respondent press, Exhibit W-32, Photograph, showing the distribution of prizes, Exhibit W-33, letter of confirmation, dated June 1, 1973, Exhibit W-34, letter of termination, dated 15th October, 1975, Exhibit W-35.

The documentary evidence relied upon by the management consists of the application, dated 1st June, 1972, addressed by Shri I. M. Chadha, the workman concerned, to the Director, M/s New Horizons (P) Ltd., 54, Okhla Industrial Estate, New Delhi, seeking employment in the factory at Okhla, Exhibit M-1. The letter of his appointment in that factory of the same date, Exhibit M-2, the certificate, dated 1st June, 1974, issued by the Haryana Printing Press, Faridabad, stating that Shri I. M. Chadha had worked with them at Rs. 300 from February, 1974 to May, 1974, Exhibit M-3, his Visiting Card of Goverdhan Printing Press, Exhibit M-4, copy of the resignation submitted by Shri I. M. Chadha to the Thomson Press (India) Ltd., Faridabad, on 31st May, 1972, Exhibit M-5, copy of the acceptance of this resignation on the same day, Exhibit M-6, copy of the voucher showing payment of his dues in full and final settlement, Exhibit M-7, copies of the Bills prepared by Shri I. M. Chadha while in the service of M/s Haryana Printing Press, Exhibit M-8 to M-12, extract of the attendance register in the factory at Okhla containing a note that he was temporarily transferred to Faridabad with effect from 16th July, 1973 (on his own request) has stated by Shri R. K. Wadhwa, Exhibit M-13, Extract from the attendance register showing his re-transfer to Okhla from Faridabad in October, 1973, his presence on 7th and 8th October, 1973 and absence from October, 9th onwards till October 19th, Exhibit M-14, Photostat copy of the pay sheet showing payment of his salary in the factory at Okhla, Exhibit M-15, copy of the salary Bill of all the workers at Okhla, Exhibit M-16, copy of the telegram, dated October 12, 1973, warning Shri I. M. Chadha that his name was liable to be struck off the rolls due to his continuous absence from duty, Exhibit M-17.

The case has been argued on both sides on preliminary issue No. 4 which relates to the jurisdiction of the Government to refer the dispute for adjudication and its validity and I have given a very careful and considered thought to the entire evidence on record, oral as well as documentary referred to above, and the contentions raised by the learned representatives of the parties.

As already observed the case of the management from the very start is that this workman was in service in their factory in Okhla Industrial Estate, New Delhi, from where he had started absents from duty, without proper authorisations and as such the appropriate Government to refer the dispute, if any, was the Delhi Administration and not the Haryana State Government. The burden of this issue was naturally upon the management especially when the workman concerned had specifically pleaded that he was working in the factory at Faridabad. On a close scrutiny of the evidence on record, I am quite clear in my mind that the management has fully succeeded in discharging this burden. It is evident from record that Shri I. M. Chadha was previously in the service of M/s Thomson Press (India) Ltd., Faridabad, where he had tendered his resignation on 31st May, 1972, and received his dues,—vide copies, Exhibit M-5 and M-6. Thereafter he had applied for appointment with M/s New Horizons (P) Ltd., 54, Okhla Industrial Estate, New Delhi,—vide his application dated 1st June, 1972, Exhibit M-1 and the appointment letter of there same date is Exhibit M-2. He had no doubt got himself temporarily transferred to Faridabad from 16th July, 1973, due to some family circumstances as stated by Shri R. K. Wadhwa, one of the Directors of the company. But he had rejoined service in the factory at Okhla in October, 1973 and after reporting for duty on 7th and 8th October, 1973, he had started remaining absent without any proper authority from 9th October, 1973, onwards and has been marked absent till 19th October, 1973. This is clear from the relevant extracts of the attendance register marked, Exhibit M-13 and M-14.

It is further established from the statement of Shri R. K. Wadhwa read with the telegram, dated 12th October 1973 that his name was liable to be struck off the rolls due to continuous absence from duty, copy Exhibit M-17. He had drawn his salary from the factory at Okhla,—vide Photostat copy of the pay sheet, Exhibit M-15.

The management has further led evidence to show that in between this workman had joined service with M/s Haryana Printing Press where he had prepared the Bills copies Exhibit M-8 to M-12 and received the certificate of service from February, 1974 to May, 1974 Exhibit M-3. There is also his visiting card of Goverdhan Press, Faridabad Exhibit M-4. According to the management no demand notice or any other communication to challenge the validity of the termination of his services by striking off his name from the rolls due to his continuous absence from duty from the factory at Okhla had been received direct from him or through the Conciliation Officer. The case of the workman also is that he had addressed all his letters and telegrams to the management at Faridabad and the demand notice had also been given to this management and to the conciliation officer at Faridabad. He has not stated that he had reported for duty in the factory at Okhla from October 9, 1973 onwards. It is further common ground between the parties that the factory at Faridabad as well as at Okhla has been closed and no worker is on its rolls since November, 1973 as admitted by the workman in his cross-examination, although denied earlier. It is however, not necessary to go into these matters and their bearing on the issues involved in the instant case for the simple and obvious reason that the management has succeeded in establishing beyond any shadow of doubt that the present workman was in service in their factory at Okhla Industrial Estate, New Delhi, from where he had started remaining absent from duty without any proper authorisation and in spite of telegraphic warning and his name had, therefore, to be struck off the rolls. In the circumstances, It can not by any stretch of imagination be held that the appropriate Government to refer the dispute, if any existed between the parties was the State of Haryana. This plea of the management which stands established, as already observed, cuts at the very root of the case so far as the Jurisdiction of the State Government to refer the dispute and the validity of the reference is concerned. The learned representative of the workman has not been able to satisfy me to the contrary.

So, for the reasons aforesaid, the preliminary issue No. 4 is decided against the workman and in favour of the management holding that the State of Haryana being not the appropriate Government to refer the dispute for adjudication to this Tribunal, the reference is without jurisdiction and invalid.

In view of my above finding on issue No. 4, it is not necessary to go into the other issue involved in the case and the reference shall, in the result, stand rejected as being without jurisdiction and bad in law. There shall, however, be no order as to costs.

O. P. SHARMA,

Dated 12th June, 1975.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 972, dated 13th June, 1975

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Dated the 12th June, 1975.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6029-4Lab-75/1975.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s National Laboratories, 20th Mile Stone, Mathura Road, Faridabad:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 95 of 1974

Between

THE WORKMEN AND THE MANAGEMENT OF M/S NATIONAL LABORATORIES
20TH MILE STONE, MATHURA ROAD, FARIDABAD

Present.—

Shri Lakshmi Narain, Cashier, Industrial Workers Union, Faridabad.

Shri K. P. Aggarwal, for the management.

AWARD

The workmen of M/s National Laboratories, 20th Mile Stone, Mathura Road, Faridabad, allegedly raised demands for grant of dearness allowance, supply of uniforms and issue of appointment and confirmation letters by the management which were however, not accepted. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the dispute for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—*vide* order No. ID/FD/74/831/27376, dated 23rd July, 1974, with the following terms of reference.

- (1) Whether the workmen are entitled to the grant of dearness allowance? If so, with what details?
- (2) Whether the workmen should be supplied with uniforms? If so, with what details?
- (3) Whether the workmen should be issued appointments letters and confirmation letters? If so, with what details?

The parties were called upon to put in their respective pleadings. The workman concerned have not filed any statement of claim in spite of getting 2/3 adjournments. Their authorised representative Shri Ram Murti Sharma had stated that since the services of all the workmen have been terminated by the management he could not contact them and was trying to get them together so that the statement of claim could be filed after receiving the necessary instructions from them. On his request the case was adjourned but no statement of claim was filed.

On the other hand, the management has pleaded that there is no union of the workers in the factory and no worker of the factory is a member of the Faridabad Industrial Workers Union, Mathura Road, Faridabad and as such it cannot be said that the demands, the subject matter of the present reference, had been espoused by any substantial workmen of the factory or that the present union had any representative capacity to do so. It has further been alleged that no demand notice had been received from the workers. Shri K. P. Aggarwal, authorised representative of the management has sworn testimony to the above effect.

In the circumstances, no further proceedings are called for in the case. In the absence of any statement of claim to refute the above contention raised on behalf of the management it can not be said that any dispute existed between the management and the workmen in the factory and that the same had been properly espoused or raised. The workmen are apparently not entitled to any relief especially when they have elected not to come forward to pursue their case by filing the statement of claim and leading evidence in support of their demands. It was for them to establish by bringing on record cogent and convincing evidence that they are members of the Faridabad Industrial Workers Union, Mathura Road, Faridabad and that this union had been authorised by them to raise the dispute on their behalf but nothing on the sought has been done in the case for reasons best known to them.

In view of the above, the award is made against the workmen concerned holding that they had not properly raised the dispute leading to the present reference and that they are not entitled to any relief. There shall, however, be no order as to costs.

Dated 12th June, 1975.

O. P. SHARMA,

Persiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 972, dated 13th June, 1975

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 12th June, 1975.

M. SETH,
Commissioner & Secy.